

SB 1051

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THE STATE SENATE
Wednesday, February 14, 2007

Senate Bill No. 1051
As Amended

SENATE BILL NO. 1051 - By: PADDACK of the Senate and ROAN of the House.

[professions and occupations - Oklahoma Security Guard and Private Investigator Act - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 1750.3, as amended by Section 2, Chapter 155, O.S.L. 2005 (59 O.S. Supp. 2006, Section 1750.3), is amended to read as follows:

Section 1750.3 A. The director of the Council on Law Enforcement Education and Training, and any staff member designated by the director, shall have all the powers and authority of peace officers of this state for the purposes of enforcing the provisions of the Oklahoma Security Guard and Private Investigator Act, and all other duties which are or may be conferred upon the Council by the Oklahoma Security Guard and Private Investigator Act. The powers and duties conferred on the director or any staff member appointed by the director as a peace officer shall not limit the powers and duties of other peace officers of this state or any political subdivision thereof. The director, or any staff member appointed by

1 the director as a peace officer shall, upon request, assist any
2 federal, state, county, or municipal law enforcement agency.

3 B. The Council on Law Enforcement Education and Training shall
4 have the following powers and duties:

5 1. To promulgate rules to carry out the purposes of the
6 Oklahoma Security Guard and Private Investigator Act;

7 2. To establish and enforce standards governing the training of
8 persons required to be licensed pursuant to the Oklahoma Security
9 Guard and Private Investigator Act with respect to:

10 a. issuing, denying, or revoking certificates of approval
11 to security training schools, and programs
12 administered by the state, a county, a municipality, a
13 private corporation, or an individual,

14 b. certifying instructors at approved security training
15 schools,

16 c. establishing minimum requirements for security
17 training schools and periodically reviewing these
18 standards, and

19 d. providing for periodic inspection of all security
20 training schools or programs;

21 3. To establish minimum curriculum requirements for training as
22 the Council may require for security guards, armed security guards,

1 and private investigators. Training requirements for unarmed
2 security guards shall not exceed forty (40) hours of instruction;

3 4. To establish minimum requirements for a mandatory continuing
4 education program for all licensed private investigators and
5 security guards which shall include, but not be limited to:

- 6 a. establishing a designated minimum number of clock
7 hours of required attendance, not to exceed ~~eight (8)~~
8 sixteen (16) clock hours yearly during the licensing
9 period, at accredited educational functions,
- 10 b. establishing the penalties to be imposed upon a
11 licensee for failure to comply with the continuing
12 education requirements,
- 13 c. ~~establishing a nonpaid advisory board of licensed~~
14 ~~private investigators~~ designating the Private Security
15 Advisory Committee to assist the Council in
16 establishing the criteria for determining the
17 qualifications of proposed continuing education
18 programs that would be submitted to the Council for
19 accreditation to meet this requirement, and
- 20 d. providing that the expense of such continuing
21 education shall be paid by the ~~private investigators~~
22 licensee participating therein;

1 5. To grant a waiver of any training requirement, except
2 firearms training which shall be required for an armed security
3 guard license, if the applicant has completed not less than one (1)
4 year of full-time employment as a security guard, armed security
5 guard, private investigator, or law enforcement officer within a
6 three-year period immediately preceding the date of application and
7 the applicant provides sufficient documentation thereof as may be
8 required by the Council;

9 6. To grant an applicant credit for fulfilling any prescribed
10 course or courses of training, including firearms training, upon
11 submission of acceptable documentation of comparable training. The
12 Council may grant or refuse any such credit at its discretion;

13 7. To issue the licenses and identification cards provided for
14 in the Oklahoma Security Guard and Private Investigator Act;

15 8. To investigate alleged violations of the Oklahoma Security
16 Guard and Private Investigator Act or rules relating thereto and to
17 deny, suspend, or revoke licenses and identification cards if
18 necessary, or to issue notices of reprimand to licensees with or
19 without probation under rules to be prescribed by the Council;

20 9. To investigate alleged violations of the Oklahoma Security
21 Guard and Private Investigator Act by persons not licensed pursuant
22 to such act and to impose administrative sanctions pursuant to rules
23 or to seek an injunction pursuant to Section 1750.2A of this title;

1 10. To provide all forms for applications, identification
2 cards, and licenses required by the Oklahoma Security Guard and
3 Private Investigator Act;

4 11. To enter into reciprocal agreements with officials of other
5 states;

6 12. To immediately suspend a license if a licensee's actions
7 present a danger to the licensee or to the public; and

8 13. To require additional testing for continuation or
9 reinstatement of a license if a licensee exhibits an inability to
10 exercise reasonable judgment, skill, or safety.

11 SECTION 2. AMENDATORY 59 O.S. 2001, Section 1750.5, as
12 amended by Section 4, Chapter 155, O.S.L. 2005 (59 O.S. Supp. 2006,
13 Section 1750.5), is amended to read as follows:

14 Section 1750.5 A. Licenses authorized to be issued by the
15 Council on Law Enforcement Education and Training (CLEET) shall be
16 as follows:

- 17 1. Security Agency License;
- 18 2. Investigative Agency License;
- 19 3. Private Investigator License (unarmed);
- 20 4. Security Guard License (unarmed);
- 21 5. Armed Security Guard License;
- 22 6. Special Event License (unarmed); and
- 23 7. Armed Private Investigator License.

1 B. Any qualified applicant meeting the requirements for more
2 than one of the positions of private investigator, security guard,
3 or armed security guard may be issued a separate license for each
4 position for which qualified, or in the discretion of the Council, a
5 combination license provided the required license fees are paid.

6 C. 1. A private investigator may carry a firearm, if the
7 private investigator also performs the functions of an armed
8 security guard, under the authority of the armed security guard
9 license.

10 2. If the private investigator performs no functions of an
11 armed security guard, the Council may ~~add an endorsement to the~~
12 ~~license of the private investigator that states "Firearms~~
13 ~~Authorized", in lieu of the armed security guard license, if the~~
14 ~~private investigator completes the same training and testing~~
15 ~~requirements of the armed security guard~~ issue an armed private
16 investigator license. The applicant for an armed private
17 investigator license must complete Phase I, III and IV training and
18 pass the psychological examination and state tests. The Council
19 will charge the same fee for the ~~"Firearms Authorized" endorsement~~
20 ~~on the~~ armed private investigators license as the cost of the armed
21 security guard license.

22 3. Any person issued a an armed private investigator license
23 ~~with a firearms authorized endorsement~~ may carry a concealed firearm

1 when on and off duty, provided the person keeps the firearm
2 concealed from view and is in possession of a valid driver license
3 and a valid armed private investigator license ~~with a firearms~~
4 ~~authorization endorsement.~~

5 D. Any identification card issued to a person meeting the
6 license requirements for an armed security guard or an armed private
7 investigator shall be distinct and shall explicitly state that the
8 person is authorized to carry a firearm pursuant to the provisions
9 of the Oklahoma Security Guard and Private Investigator Act. Upon
10 receipt of the license and identification card, the armed security
11 guard or armed private investigator is authorized to carry a firearm
12 in the performance of his or her duties subject to the provisions of
13 the Oklahoma Security Guard and Private Investigator Act and the
14 rules promulgated by the Council.

15 E. The Council may issue a conditional license to a person
16 employed by a security or investigative agency as a trainee for a
17 security guard, armed security guard, or private investigator
18 position, when the person has submitted a properly completed
19 application, made under oath, subject to the following conditions:

20 1. A conditional license shall authorize employees to perform
21 the same functions that regular licensees perform, but subject to
22 supervision by the employing agency as the Council may prescribe;

1 2. The holder of a conditional license shall complete the
2 necessary training requirements within one hundred eighty (180) days
3 from the effective date of the conditional license, after which the
4 conditional license shall expire;

5 3. The holder of a conditional license as an armed security
6 guard shall not carry a firearm in the performance of duties until
7 after completing a course of firearms training as prescribed by the
8 Council, and having been issued a regular license by the Council;

9 4. A conditional license may be renewed at the discretion of
10 the Council, if necessary to allow an applicant to complete any
11 training required for a regular license; and

12 5. When the Council finds that a conditional license holder has
13 completed the required training and is otherwise qualified for a
14 license pursuant to the provisions of the Oklahoma Security Guard
15 and Private Investigator Act, the Council shall issue a regular
16 license.

17 F. A Security Agency License may be issued to an individual,
18 corporation, or other legal entity meeting the following
19 qualifications:

20 1. If the license is to be issued in the name of a legal entity
21 other than a natural person, the applicant must furnish proof that
22 the entity is legally recognized, such as the issuance of a
23 corporate charter; and

1 2. The executive officer, manager, or other person in charge of
2 supervising security guards in the performance of their duties shall
3 be a licensed security guard.

4 G. An Investigative Agency License may be issued to an
5 individual, corporation, or other legal entity meeting the following
6 qualifications:

7 1. If the license is to be issued in the name of a legal entity
8 other than a natural person, the applicant must furnish proof that
9 the entity is legally recognized, such as the issuance of a
10 corporate charter;

11 2. Any person, otherwise qualified, may own a private
12 investigation agency; and

13 3. A self-employed private investigator who employs no other
14 investigators shall also be licensed as an investigative agency, but
15 shall only be required to be insured or bonded as a self-employed
16 private investigator.

17 H. A Security Guard License, Armed Security Guard License,
18 Private Investigator License, Armed Private Investigator License, or
19 combination thereof may be issued to an applicant meeting the
20 following qualifications. The applicant shall:

21 1. Be a citizen of the United States or an alien legally
22 residing in the United States;

1 2. Be at least eighteen (18) years of age, except that an
2 applicant for an Armed Security Guard License shall be at least
3 twenty-one (21) years of age;

4 3. Have successfully completed training requirements for the
5 license applied for, as prescribed by the Council;

6 4. Be of good moral character;

7 5. Not have a record of a felony conviction;

8 6. Not have a record of conviction for larceny, theft, false
9 pretense, fraud, embezzlement, false personation of an officer, any
10 offense involving moral turpitude, any offense involving a minor as
11 a victim, any nonconsensual sex offense, any offense involving the
12 possession, use, distribution, or sale of a controlled dangerous
13 substance, any offense involving a firearm, or any other offense as
14 prescribed by the Council, as provided herein.

15 a. If any conviction which disqualifies an applicant
16 occurred more than five (5) years prior to the
17 application date and the Council is convinced the
18 offense constituted an isolated incident and the
19 applicant has been rehabilitated, the Council may, in
20 its discretion, waive the conviction disqualification
21 as provided for in this paragraph and issue an unarmed
22 security guard license or a private ~~investigator's~~
23 investigator license, but shall not issue an armed

1 guard license, to the applicant if the applicant is
2 otherwise qualified, unless the felony involved the
3 use of a firearm or was violent in nature.

4 b. If an Oklahoma State Bureau of Investigation records
5 check and a local records check reveal that there are
6 no felony convictions, criminal convictions involving
7 moral turpitude, or any other disqualifying
8 convictions as specified in the Oklahoma Security
9 Guard and Private Investigator Act or prescribed by
10 the Council, then the Council may conditionally issue
11 an armed security guard license pending completion of
12 the criminal history and background check.

13 c. Under oath, the applicant shall certify that he or she
14 has no disqualifying convictions as specified in the
15 Oklahoma Security Guard and Private Investigator Act
16 or by the Council.

17 d. The applicant shall further meet all other
18 qualifications.

19 e. If upon completion of the required background
20 investigation it is discovered that a disqualifying
21 conviction exists, the Council shall immediately
22 revoke the armed guard license of the applicant;

1 7. Make a statement that the applicant is not currently
2 undergoing treatment for mental illness, condition, or disorder,
3 make a statement whether the applicant has ever been adjudicated
4 incompetent or committed to a mental institution, and make a
5 statement regarding any history of illegal drug use or alcohol
6 abuse. Upon presentation by the Council on Law Enforcement
7 Education and Training of the name, gender, date of birth, and
8 address of the applicant to the Department of Mental Health and
9 Substance Abuse Services, the Department of Mental Health and
10 Substance Abuse Services shall notify the Council within ten (10)
11 days whether the computerized records of the Department indicate the
12 applicant has ever been involuntarily committed to an Oklahoma state
13 mental institution. For purposes of this subsection, "currently
14 undergoing treatment for a mental illness, condition, or disorder"
15 means the person has been diagnosed by a licensed physician or
16 psychologist, as being afflicted with a substantial disorder of
17 thought, mood, perception, psychological orientation, or memory that
18 significantly impairs judgment, behavior, capacity to recognize
19 reality, or ability to meet the ordinary demands of life and such
20 condition continues to exist; and

21 8. Make a statement regarding misdemeanor domestic violence
22 charges.

1 I. A special event license may be issued to an employee of a
2 security agency who is hired on a temporary basis as an unarmed
3 security guard for a particular event. An application for a special
4 event license shall be made by the agency employing the applicant.
5 The agency shall certify to the Council that the applicant meets the
6 qualifications for security guards, pursuant to subsection H of this
7 section.

8 J. 1. All persons and agencies shall obtain and maintain
9 liability coverage in accordance with the following minimum
10 standards:

- 11 a. general liability insurance coverage for bodily
12 injury, personal injury, and property damage, with
13 endorsements for personal injury including false
14 arrest, libel, slander, and invasion of privacy, or
- 15 b. a surety bond that allows persons to recover for
16 actionable injuries, loss, or damage as a result of
17 the willful, or wrongful acts or omissions of the
18 principal and protects this state, its agents,
19 officers and employees from judgments against the
20 principal or insured licensee, and is further
21 conditioned upon the faithful and honest conduct of
22 the principal's business.

1 2. Liability coverages and bonds outlined in this section shall
2 be in the minimum amounts of One Hundred Thousand Dollars
3 (\$100,000.00) for agencies, Ten Thousand Dollars (\$10,000.00) for
4 armed security guards and armed private investigators ~~with the~~
5 ~~firearms authorization~~, or combination armed license; and Five
6 Thousand Dollars (\$5,000.00) for unarmed security guards and self-
7 employed unarmed private investigators who employ no other
8 investigators.

9 3. Security agencies and investigative agencies shall ensure
10 that all employees of these agencies have met the minimum liability
11 coverages as prescribed in this section.

12 4. Insurance policies and bonds issued pursuant to this section
13 shall not be modified or canceled unless ten (10) days' prior
14 written notice is given to the Council. All persons and agencies
15 insured or bonded pursuant to this section shall be insured or
16 bonded by an insurance carrier or a surety company licensed in the
17 state in which the insurance or bond was purchased, or in this
18 state.

19 5. In lieu of the requirements of this subsection, the Council
20 may accept a written statement from a corporation which is
21 registered with the Oklahoma Secretary of State attesting that the
22 corporation self-insures the general operation of business for the
23 types of liability set out in paragraphs 1 and 2 of this subsection.

1 K. Upon written notice, any license may be placed on inactive
2 status.

3 L. Similar or duplicate agency names will not be issued. Each
4 agency name must be distinguishably different.

5 SECTION 3. AMENDATORY 59 O.S. 2001, Section 1750.6, as
6 last amended by Section 1, Chapter 151, O.S.L. 2004 (59 O.S. Supp.
7 2006, Section 1750.6), is amended to read as follows:

8 Section 1750.6 A. 1. Application for a license shall be made
9 on forms provided by the Council on Law Enforcement Education and
10 Training and shall be submitted in writing by the applicant under
11 oath. The application shall require the applicant to furnish
12 information reasonably required by the Council to implement the
13 provisions of the Oklahoma Security Guard and Private Investigator
14 Act, including classifiable fingerprints to enable the search of
15 criminal indices for evidence of a prior criminal record, including,
16 but not limited to, a national criminal history record check as
17 defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

18 2. Upon request of the Council, the Oklahoma State Bureau of
19 Investigation and other state and local law enforcement agencies
20 shall furnish a copy of any existent criminal history data relating
21 to an applicant, including investigation reports which are otherwise
22 required by law to be deemed confidential, to enable the Council to

1 determine the qualifications and fitness of such applicant for a
2 license.

3 B. 1. a. The original application and any license renewal shall
4 be accompanied by a ~~nonrefundable~~ fee of Twenty-five
5 Dollars (\$25.00) for each original application and
6 renewal of a private investigator or an unarmed
7 security guard, Fifty Dollars (\$50.00) for each
8 original application and renewal of an armed security
9 guard or an armed private investigator, Seven Dollars
10 (\$7.00) for each special event license, and Two
11 Hundred Dollars (\$200.00) for either the original
12 application or each renewal for a security agency or
13 investigative agency. If an individual or agency does
14 not qualify for the type of license or renewal license
15 requested, CLEET shall retain twenty percent (20%) of
16 the licensing fee as a processing fee and refund the
17 remaining amount to the individual or agency
18 submitting payment. The individual license fee paid
19 by a licensed agency will be refunded to the agency.

20 b. In addition to the fees provided in this subsection,
21 the original application of an unarmed private
22 investigator, unarmed security guard or armed security
23 guard shall be accompanied by a nonrefundable fee for

1 a national criminal history record with fingerprint
2 analysis, as provided in Section 150.9 of Title 74 of
3 the Oklahoma Statutes.

4 2. A licensee whose license has been suspended may apply for
5 reinstatement of license after the term of the suspension has
6 passed. Any application for reinstatement following a suspension of
7 licensure shall be accompanied by a nonrefundable fee of Twenty-five
8 Dollars (\$25.00) for the reinstatement of a private investigator or
9 unarmed security guard, Fifty Dollars (\$50.00) for the reinstatement
10 of an armed security guard, and Two Hundred Dollars (\$200.00) for
11 reinstatement of a security or investigative agency.

12 3. A licensee who fails to file a renewal application on or
13 before the expiration of a license shall pay a late fee of Twenty-
14 five Dollars (\$25.00) for an individual license and a late fee of
15 One Hundred Dollars (\$100.00) for an agency license.

16 4. Except as otherwise provided in this subsection, the fees,
17 penalties, and fines shall be deposited in the General Revenue Fund.
18 The prevailing fingerprint processing fee for the original
19 application for a private investigator, an unarmed security guard,
20 or an armed security guard shall be deposited in the OSBI Revolving
21 Fund.

22 C. A Security Guard License, Armed Security Guard License, or
23 Private Investigator License shall be valid for a period of two (2)

1 years and may be renewed for additional two-year terms. A Security
2 Agency License or Investigative Agency License shall be valid for a
3 period of five (5) years and may be renewed for additional five-year
4 terms. A special event license shall be valid only for the duration
5 of the event for which it is expressly issued. Any individual may
6 be issued up to two special event licenses during any calendar year.

7 D. The Council shall devise a system for issuance of licenses
8 for the purpose of evenly distributing the expiration dates of the
9 licenses.

10 E. Pursuant to its rules, the Council may issue a duplicate
11 license to a person licensed pursuant to the provisions of the
12 Oklahoma Security Guard and Private Investigator Act. The Council
13 may assess a fee of Four Dollars (\$4.00) for the issuance of a
14 duplicate license. The fee must accompany the request for a
15 duplicate license.

16 SECTION 4. AMENDATORY 59 O.S. 2001, Section 1750.10B, is
17 amended to read as follows:

18 Section 1750.10B Beginning July 1, 1990, private schools
19 desiring to conduct any or all phases of private security training
20 shall submit an application for a certificate of approval to the
21 Council on Law Enforcement Education and Training. The application
22 shall be accompanied by a ~~nonrefundable~~ fee of Three Hundred Dollars
23 (\$300.00). The certificate shall be renewed annually by July 1.

1 The renewal fee shall be Three Hundred Dollars (\$300.00). If the
2 school does not qualify for a certificate or renewal certificate,
3 CLEET shall retain twenty percent (20%) of the fee as a processing
4 fee and refund the balance to the school.

5 SECTION 5. This act shall become effective November 1, 2007.

6 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-12-07 -
7 DO PASS, As Amended and Coauthored.